

APPEAL NO. 031869  
FILED AUGUST 27, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 16, 2003. The hearing officer determined that the respondent (claimant) had not sustained a compensable "repetitious" trauma injury on \_\_\_\_\_, but that the claimant had sustained a compensable injury to his right shoulder "in [a specific] incident at work on \_\_\_\_\_"; that the claimant did not have disability; and that the claimant had good cause for failing to timely report his injury to the employer pursuant to Section 409.002(2). The hearing officer's determinations on injury and disability have not been appealed and therefore have become final pursuant to Section 410.169.

The appellant (carrier) appeals the good cause for failure to give timely notice determination, contending that the hearing officer found that the claimant had not trivialized his injury and that the hearing officer's finding that the claimant's doctor "may have" misinformed the claimant were not supported by the evidence. The file does not contain a response from the claimant.

DECISION

Affirmed.

The unappealed hearing officer's determinations were that the claimant sustained a compensable right shoulder injury on \_\_\_\_\_, and that the claimant saw his doctor on April 17, 2002, with right shoulder complaints. The doctor's reports of that visit are contradictory, but generally indicate that the x-rays showed "mild DJD." The claimant testified that the doctor said that he wasn't sure what caused the pain, prescribed medication, and told the claimant to return for an MRI if the pain persisted. The claimant mentioned that the doctor thought the pain might be arthritis. The claimant testified that the pain persisted and an MRI was performed on May 14, 2002. The MRI showed a right shoulder torn rotator cuff. The MRI result was transcribed on May 15, 2002. The claimant testified that he saw the doctor again "a week ago after that [the MRI]." The hearing officer found that the claimant reported a work-related injury to the employer on May 23, 2002.

The carrier's appeal seems to think that the claimant's good cause was trivialization. We do not read the hearing officer's decision to say that; rather it seems the good cause was that neither the doctor nor the claimant knew the cause of the right shoulder pain until the results of the MRI were known. The carrier argues that "good cause must continue up until the time of reporting" and that the "MRI was done May 14, 2002; the results were known May 15, 2002 the injury was reported May 23, 2002." The MRI was transcribed on May 15, 2002, but there is no evidence that the claimant was aware of the results of the MRI at that time. The evidence seems to indicate that the

claimant saw the doctor sometime after May 14 or 15, 2002, and it was the claimant's testimony that he saw the doctor a week after the MRI, or about May 22 or 23, 2002, when the report was made to the employer.

We have reviewed the complained-of determination and conclude that the hearing officer's determination on the appealed issue is not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **PACIFIC EMPLOYERS INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**JAVIER GONZALEZ  
3421 WEST WILLIAM CANNON DRIVE  
SUITE 131, PMB 113  
AUSTIN, TEXAS 78745.**

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Thomas A. Knapp  
Appeals Judge

CONCUR

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Elaine M. Chaney  
Appeals Judge

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Margaret L. Turner  
Appeals Judge